THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17871 of 2005

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FRIDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FIVE

Between:

Smt. Kollipara Savithri D/o. Ngendram
R/o. Tenali, Guntur District Rep.by her G.P.A. Holder Allapati Lakshmi Siva Prasad.

..... PETITIONER

AND

1. The Executive Officer Sri Panchamukha Anjaneyaswamy Temple

Group-II Temples Tenali Town Guntur District.
2 The Deputy Commissioner,Endowments
Endowments Department Guntur District.
3 The Commissioner, Endowments Dept., Tilak Road. Hyderabad.
4 Government of A.P, Rep.by its Secretary (Revenue) Endowments-IV

Department Secretariat Buildings Hyderabad.
5 Assistant Commissioner Endowments Department, Guntur.

.....RESPONDENTS

The Court, at the stage of admission, made the following:

Oral order:-

Heard the learned counsel for the petitioner, learned Government Pleader for respondents No.2 to 5 and Sri N. Guru Gopal, learned standing counsel for 1st respondent.

By the impugned notice dated 02-08-2005, the 1st respondent informed the petitioner that qua the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Immovable Properties and Rights (Other than Agricultural lands) Leases and Licences Rules, 2003 (for short 'the Rules'), the lease in favour of the petitioner of the lands belonging to Sri Panchamukha Anjaneya Swamy Devasthanam, Tenali town, Guntur district, is null and void and that the lease granted in the petitioner's favour vide G.O.Rt.No. 1565 Revenue (Endts.IV) Department dated 17-09-1997 (for short 'the G.O.Rt.No. 1565') and G.O.Rt.No. 69 Revenue (Endts.IV) Department dated 15-01-1998 (for short 'the G.O.Rt.No. 69') stands extinguished and has become inoperative from the date of issuance of the Rules and that consequently, the petitioner has no right or authority to continue in the shop in T.S.No. 290, Ward No.9, Block No.5, D.No. 7-3-8 in Jain Temple Road, Tenali, a property belonging to the 1st respondent-Devasthanam. After setting out the aforementioned recitals, the 1st respondent sensitized the petitioner to handover the possession of the property (specified) within a week from the date of receipt of the notice, failing which, '*both civil and criminal action would be initiated against you, rendering you liable for the costs and consequences thereof.*'

The petitioner is aggrieved by this order and apprehends that she would be dispossessed summarily and coercively and without following the due process of law that is mandated, even if she were treated as an encroacher, under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act').

The 1st respondent by the impugned notice treated the lease of the petitioner as determined under the Rules, and such treatment and determination by the 1st respondent is subject to the quasi-judicial jurisdiction of the Commissioner under Section 92 of the Act or to any other authority to whom such power is validly delegated. In such a quasi-judicial adjudication of the petitioner's grievance, such authority is required to consider whether there was a lease legitimately drawn up in favour of the petitioner; as also whether the State Government was entitled or authorized to issue orders in G.O.Rt.No.1565 and G.O.Rt.No.69 according permission for allowing the petitioner to continue as a 'tenant' on enhanced rate of rent at Rs.3,500-00 per month at the rate of 33 1/3% for every three years (vide G.O.Rt.No. 1565), which was amended in G.O.Rt.No. 69 by including the expression '*for a period of 15 years, subject to renewal after completion of 15 years, if there is no default on the part of lessee on usual terms and conditions*' and also whether the Government has the power, authority or jurisdiction in respect of endowments land, to create what in effect is a perpetual lease in favour of a tenant under the fig-leaf of fifteen (15) years lease eligible to be extended in perpetuity subject only to default committed by the lessee. Whether the grant of such largesse by the State of an endowment property is consistent with the obligations and limitations on the discretion of a State to properly administer endowments property and for benefit of endowment institutions in the context of the Act and the Constitutional limitations on State intrusion into the property of religious institutions are all aspects which are inherently determinable by the adjudicating authority under Section 92 of the Act irrespective of the fact that the authority under Section 92 of the Act is also a Sate actor drawing

salary from the public exchequer. Such authority is required to independently and *de hors* his being an employee of the State determine the validity of the State action, as he is a Statutory Authority. In any appeal, revision or representation preferred by the petitioner against the impugned notice of the 1st respondent dated 02-08-2005, it is obvious that all these questions will be considered by the authority under Section 92 of the Act. The authority, under Section 92 of the Act, has also to consider whether such grant of a lease in perpetuity with periodic extensions built in to the terms of such a lease is consistent with the obligations of the State and its actors to safeguard endowments property and ensure a just and reasonable return on this asset of the endowments. There is no reason for the petitioner's apprehension that she would be dispossessed, except in accordance with due process of law.

The writ petition is accordingly dismissed with liberty in the petitioner to pursue the appropriate remedies against the determination by the 1st respondent of the petitioner's lease in terms of the Rules. No costs.

GODA RAGHURAM, J

Dt. 12-08-2005

Pvks

Nb:- Furnish c.c. in four days.

B/o pvks/*